

PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

ENERGY DIVISION

RESOLUTION E-4498

September 13, 2012

(REDACTED)

R E S O L U T I O N

Resolution E-4498. Pacific Gas and Electric Company (PG&E) request for approval to update its Electric Portfolio Hedging Plan.

Proposed Outcome: PG&E's proposed Electricity and Gas Hedging Plan (Hedging Plan) to increase the maximum allowable Liquidity Limit is approved with a modification to its proposed confidentiality term. The specific details of liquidity limits are provided in the confidential section of this resolution.

Estimated Cost: The Cost of the Liquidity Limit increase is uncertain because the additional liquidity could be met in several ways as discussed in the confidential section of this resolution.

By Advice Letter 3997-E filed on January 30, 2012.

SUMMARY

This resolution approves PG&E's proposed change to its confidential Electric Portfolio Hedging Plan (Hedging Plan) that is part of PG&E's 2010 Bundled Procurement Plan (BPP). PG&E proposes to increase the Liquidity Limit, which is a component of PG&E's Liquidity Management Strategy, to provide sufficient liquidity to support PG&E's physical commodity and compliance instrument procurement needed for Cap-and-Trade.

This resolution modifies PG&E's proposed term of confidential treatment for Attachments A, B, and C of Advice Letter 3997-E. PG&E had requested confidential treatment for 3 years from the date of the last trade executed under this plan. With the modification adopted in this resolution, these documents shall be confidential for a period of three years from the date that Advice Letter 3997-E was submitted, i.e. through January 30, 2015. However, PG&E may submit an application to the Commission requesting an extension of the confidentiality period.

BACKGROUND

PG&E's Advice Letter (AL) 3997-E proposes changes to PG&E's Hedging Plan (Conformed 2010 BPP). Decision (D.) 07-12-052 ordered that all updates to the utilities' LTPPs filed between the biennial procurement plan filings be filed via advice letter and include both red-lined and "clean" versions of the proposed changes. AL 3997-E complies with this requirement. PG&E explained the proposed revisions to the PG&E Procurement Review Group (PRG) before filing.

In AL 3997-E PG&E proposes to increase the Liquidity Limit in its Hedging Plan in order to provide sufficient liquidity to support PG&E's compliance instrument procurement and financial hedging, a component of PG&E's Liquidity Management Strategy, which are discussed in the confidential section of this resolution.

Because of the confidential nature of PG&E's filing, the public portion of this resolution describes only in broad strokes the nature of PG&E's request. A confidential appendix attached to this resolution describes PG&E's proposed changes to its Hedging Plan in greater detail.

In addition, PG&E seeks to have Attachments A, B, and C of AL 3997-E remain confidential for three years following expiration of the last trade executed under this plan.

NOTICE

Notice of AL 3997-E was made by publication in the Commission's Daily Calendar. PG&E indicates that a copy of the Advice Letter was mailed and distributed in accordance with Section IV of General Order 96-B to parties shown on the list attached to the advice letter, and to the service list for Rulemaking 10-05-006 (Long-Term Procurement Plans).

PROTESTS

AL 3997-E was not protested.

DISCUSSION

The Commission has reviewed all the materials submitted with this advice letter and concludes that AL 3997-E should be approved. These proposed changes have been thoroughly vetted in meetings with PG&E's Procurement Review Group (PRG). Participants in the PRG meetings include Energy Division, the Division of Ratepayer Advocates (DRA), The Utility Reform Network (TURN), and the California Department of Water Resources (CDWR). Although these changes to the Hedging Plan are confidential, they have been

subjected to review and scrutiny not only by Energy Division but also by the other parties mentioned above.

We believe that the changes PG&E proposes to its Liquidity Limit are reasonable. Based on our analysis of the cost of GHG compliance instruments, and our expectation that PG&E will reasonably engage in the procurement of GHG compliance instruments, we believe that it will be unlikely that PG&E's liquidity level related to GHG compliance instrument procurement will reach the increase in the Liquidity Limit increase authorized in this resolution. The revised Liquidity Limit should expose ratepayers to minimal risk while helping PG&E to maintain its ability to operate within its Hedging Plan and to adapt its Hedging Plan to changing market conditions associated with Cap-and-Trade. No party has protested the advice letter, and Energy Division staff recommends approval.

We modify the period of confidentiality for Attachments A, B, and C of AL 3997-E. Those documents include certain relevant pages of PG&E's Electric Portfolio Hedging Plan and a summary of PG&E's proposed update. Those documents shall remain confidential to January 30, 2015, i.e. three years after AL 3997-E was submitted. PG&E had requested confidential treatment of those documents for three years following expiration of the last trade executed under this plan. At least six months prior to the expiration of confidentiality, PG&E may file an application to extend confidential treatment. The Commission believes that the period of time for which PG&E is requesting confidential treatment is much too long, and not in line with the provisions of D.06-06-066. The confidentiality matrix in D.06-06-066 (Appendix 1 of that decision) provides that "long term fuel (gas) buying and hedging plans" are to be confidential for three years. Footnote 2 of that matrix says that "Where this Matrix allows confidential treatment for a period of time, that period shall begin on the first date a party submits the data to the Commission or furnished it to a third party, including an affiliated company, whichever comes first." PG&E's request is not in line with D.06-06-066. D.11-01-037 allowed PG&E to extend the three-year confidential period for its 2007-2008 winter hedging plan and allowed PG&E, in Ordering Paragraph #2, to "seek to extend the protective order granted by today's decision by filing an application at least six months prior to the expiration of today's decision."

The Commission is reviewing General Order (GO) 66-C regulations to improve public access to records. In Draft Resolution L-436, the Commission has indicated that regulations set forth in GO 66-C may be outdated, cumbersome, and may often delay rather than facilitate access to

records and is reviewing these regulations to improve public access to records subject to disclosure. Issues such as the confidentiality issues raised by this resolution are likely to fall within the scope of that review. A workshop concerning the issues raised in Draft Resolution L-436 was held at the Commission on June 19, 2012.

COMMENTS

Public Utilities Code section 311(g)(1) provides that this resolution must be served on all parties and subject to at least 30 days public review and comment prior to a vote of the Commission. Section 311(g)(2) provides that this 30-day period may be reduced or waived upon the stipulation of all parties in the proceeding.

The 30-day comment period for the draft of this resolution was neither waived nor reduced. Accordingly, this draft resolution was mailed to parties for comments on July 2, 2012.

PG&E submitted comments on the draft resolution on July 23, 2012. PG&E requests that the confidentiality treatment that it proposed in AL 3997-E be adopted instead of the treatment indicated in the draft resolution. PG&E notes that there is no prohibition against requesting an extension of the three-year confidentiality limit in an advice letter. Further, PG&E adds that D.11-01-037, cited in the draft resolution, granted an extension to the confidentiality period for a gas hedging plan to PG&E for an additional three years on the basis that disclosure would put PG&E at an unfair business disadvantage. PG&E says it is seeking the same treatment as allowed in D.11-01-037.

PG&E adds that the Commission had previously granted its similar requests for confidential treatment, as in Resolution E-4362, and that the Commission should not change its historical approach.

Finally PG&E believes that it would be administratively easier and less costly to simply grant PG&E's request now, rather than require a later application, given that it expects that would make such an extension request later anyway and that it is in the best interests of customers to keep this information confidential.

The draft resolution was not revised to adopt PG&E's requested confidential treatment period. PG&E says it is seeking the same confidential treatment as was authorized in D.11-01-037. But that decision simply extended confidential treatment of a PG&E Gas hedging plan for an additional three years, after PG&E

had submitted an application, A.10-10-006. This resolution provides PG&E the same opportunity as provided earlier by the Commission, i.e. to seek authority to extend confidential treatment of attachments to AL 3397-E by filing an application. Further, with AL 3397-E, PG&E is seeking a far greater extension of confidential treatment than three years. It is seeking an extension of confidential treatment for three years beyond the last trade executed under the Electric Portfolio Hedging Plan. Granting PG&E's request would effectively provide confidential treatment for much longer than allowed under D.11-01-037.

The Commission recognizes that it had earlier authorized similar requests for confidential treatment from PG&E. However, the plain language of D.06-06-066 only provides for a three year term of confidentiality for hedging plans from the date they were submitted to the Commission. Further, the Commission is now reviewing the proper terms of confidentiality of documents in association with Resolution L-436. Some parties have expressed concerns that routine extensions of confidentiality terms essentially provide for periods of confidentiality that are far longer than originally contemplated in D.06-06-066.

Finally, it may very well be the case that PG&E will again seek an extension of confidentiality at a later time, and it would be administratively easier and less costly to grant an extension at this time. However, we believe that an extension should not be granted at this time while we are reviewing confidentiality issues related to Resolution L-436. The Commission can not assume that an extension requested in a later application would be granted.

FINDINGS

1. Decision (D.) 07-12-052 and D.12-01-033 ordered that all changes to the utilities' Conformed 2010 Bundled Procurement Plan (BPP) be filed via advice letter.
2. PG&E filed AL 3997-E on January 30, 2012.
3. In AL 3997-E, PG&E is requesting changes to its confidential Hedging Plan to increase the maximum allowable Liquidity Limit, a component of PG&E's Liquidity Management Strategy.
4. No protests to AL 3997-E were filed.

5. Although the proposed changes detailed in AL 3997-E are confidential, they have been reviewed by PG&E's Procurement Review Group and the Energy Division.
6. Attachments A-C in AL 3997-E should remain confidential until January 30, 2015, which is three years following the filing of AL 3997-E.

THEREFORE IT IS ORDERED THAT:

1. The request of PG&E in AL 3997-E to increase the Liquidity Limit of its confidential Hedging Plan associated with its Conformed 2010 BPP is approved without modification.
2. Attachments A-C in AL 3997-E shall remain confidential until January 30, 2015, which is three years following the filing of AL 3997-E.
3. Six months prior to January 30, 2015, PG&E may file an application seeking an extension of the confidential period of Attachments A, B, and C.

This Resolution is effective today.

I certify that the foregoing resolution was duly introduced, passed and adopted at a conference of the Public Utilities Commission of the State of California held on September 13, 2012; the following Commissioners voting favorably thereon:

/s/ PAUL CLANON

Paul Clanon

Executive Director

MICHAEL R. PEEVEY

President

TIMOTHY ALAN SIMON

MICHEL PETER FLORIO

CATHERINE J.K. SANDOVAL

MARK J. FERRON

Commissioners